

**STATE OF CALIFORNIA
FRAUD ASSESSMENT COMMISSION**

**Summary Meeting Minutes
Sacramento, California
September 7, 2016**

In attendance: Don Marshall, Chairperson; and Commission Members Joel Sherman, Dr. Karla Rhay, Lilia Garcia-Brower, John Riggs, and Dante Robinson.

Others present: George Mueller, Deputy Commissioner (DC), Enforcement Branch, California Department of Insurance (CDI); Laureen Pedroza, Assistant Chief, CDI Enforcement Branch; Vanessa Himelblau, Senior Staff Counsel, CDI Legal Division; Vern Pierson, District Attorney for El Dorado County

Opening Remarks

Chairperson Marshall opened the meeting at 10:45 am and made the following announcements

- Commissioner Doug Williams has submitted his resignation from the Commission
- Commissioner Vern Steiner, the State Fund CEO, has designated Dante Robinson to act on his behalf at FAC meetings

Chairperson Marshall asked for a motion to approve the submitted summary minutes from the June 22, 2016, meeting.

Motion

Commissioner Sherman made a motion to accept the June 22, 2016, summary minutes as submitted. Commissioner Rhay seconded the motion.

Action

The Fraud Assessment Commission (FAC), voted unanimously to approve the summary meeting minutes.

Old Business

Chairperson Marshall moved to the next agenda item, old business, and turned the meeting over to Vanessa Himelblau, Senior Staff Counsel, CDI Legal Division. In response to discussion and questions raised at the prior meeting, Ms. Himelblau made a presentation on the Bagley Keene Open Meeting Act as it pertains to the RFA review process and on the use of sub-committees. As part of Ms. Himelblau's presentation she clarified that all Commissioners, just the two representatives on the review panel, should receive copies of the county RFAs, excluding the confidential Part B.

Chairperson Marshall then turned the meeting over to DC Mueller.

Workers' Compensation Fraud Program Overview

DC Mueller acknowledged the efforts of the Media Office, Local Assistance, and the Fraud Division Operations staff in preparing today's presentation. He then introduced Vern Pierson, District Attorney (DA) for El Dorado County and Co-Chair of the California District Attorney Association's Insurance Fraud Committee.

DC Mueller and DA Pierson jointly presented the Workers' Compensation Fraud Program Overview for Fiscal Year (FY) 2015-16. The presentation included examples of statewide county successes in the Workers' Compensation Fraud Program areas.

The Overview began with an update on cases started in prior years. The case updates included Pacific Hospital of Long Beach (Michael Drobot), a provider fraud case that is in the court process and highlighted some of the related investigations and prosecutions in FY 2015-16; the Dancing Hamster (Leroy Barnes), a claimant fraud case; Michael Silverberg, an employer premium fraud case; and Bridezilla (Anita Maxwell) a claimant fraud case.

DC Mueller commented that cases like these remind us that those who commit insurance fraud may also be involved in other crimes. Trends seen in workers' compensation insurance fraud include human trafficking, tax fraud, employer dissuasion of employees, insurance premium fraud, and complex provider fraud schemes. He also iterated that complex cases use a great deal of investigative and prosecutorial resources to complete and additional resources are needed as cases proceed through the judicial process.

DC Mueller and DA Pierson then presented videos and talked about county efforts and summarized some of their cases. They highlighted claimant fraud cases from Tulare, Santa Clara, Butte, and Ventura Counties. A case from Santa Barbara County was presented as an example of claim dissuasion.

DC Mueller and DA Pierson then explained that businesses that operate in the underground economy obtain an unfair competitive advantage over businesses that comply with the laws. Premium fraud cases have increased over the last four FYs due to coordinated efforts and the regional task force approach. Insurance fraud, tax evasion, and unemployment tax fraud are captured jointly in this strategic approach. Cases were highlighted from Sacramento, Los Angeles, Kings, San Diego, Monterey, and Contra Costa Counties.

DC Mueller and DA Pierson then explained that provider fraud is a significant cost driver of the Workers' Compensation System. Medical provider fraud is often due to complicated schemes and investigations are resource and time intensive often taking several years to complete. Cases from Los Angeles, Kern, and San Diego Counties were highlighted.

DC Mueller and DA Pierson then explained that CDI led a statewide multi-agency outreach effort focused on curbing the underground economy. Forty seven businesses were visited to provide owners with information about their obligations to comply with insurance, licensing, workplace safety, labor laws, and tax codes.

DC Mueller then introduced Nancy Kincaid, CDI's Press Secretary, who shared what CDI is doing in communication and outreach. The presentation then continued with examples of outreach which publicize insurance fraud cases through news conferences, press releases, traditional and social media platforms. Publicizing cases serves the purpose of raising awareness among the public and creating an element of deterrence.

DC Mueller and DA Pierson then provided an update of the Heidary case from Riverside County. This case, in addition to the previous cases, provides examples of the investigations and prosecutions making their way through the judicial process.

The presentation provided data reported by district attorneys for FY 2015-16 (July 1, 2015 through April 15, 2016) which indicated the arrest of 579 suspects, 479 convictions for workers' compensation fraud, representing \$898 million of chargeable fraud, and an estimated return on investment of \$15 for every \$1 spend on anti-fraud efforts.

DC Mueller and DA Pierson emphasized that premium fraud cases have increased over the last four FYs due to coordinated efforts and the task force approach and then explained that similar efforts are being coordinated to combat medical provider and other high-impact workers' compensation fraud. Medical provider cases are labor and time intensive and require specific expertise. This area should grow as the task force approach is implemented.

On behalf of CDI and the District Attorneys, DC Mueller and DA Pierson requested a 5% increase over current funding level or \$2,943,000 to be split \$1,179,000 for State Operations and \$1,764,000 for Local Assistance to start in FY 2017-18. The increase in funding is to support the workers' compensation fraud investigation and prosecution workload increases.

DC Mueller thanked everyone for their time and turned the meeting back over to Chairperson Marshall who called for a short break.

Upon resuming the meeting, Chairperson Marshall thanked the presenters and opened the floor to the Commissioners for discussion and questions.

Chairperson Marshall noted that the requested increase was for 5% and the District Attorneys' Projected Plan and Budget for FY 2017-18 was 19% higher and asked for an explanation.

DA Pierson explained that historically, budget requests were higher than funds available; DAs had discussed and felt the 5% was appropriate; two years ago there was a 10% increase and a change of course that resulted in the regional task force model.

Commissioner Riggs asked what the impact of the proposed increase would be on payroll.

Damian Scribner of CDI responded that, with the recent growth in the workforce, the impact to insured employers would be a decrease from current \$2.59/1000 to 2.45/1000 with the 5% increase.

Commissioner Sherman asked what the areas for savings are.

Assistant Chief Pedroza responded that, potential areas for savings are the anticipated CDI data analytics project and data specialist support staff; the combined resources of CDI, EDD, FTB, and local DAs; and the identification of patterns and red flags.

Commissioner Robinson inquired as to how the assessment is split between CDI and the District Attorneys

Chairman Marshall discussed the statute which requires 40% be distributed to CDI and 40% be distributed to District Attorneys, and 20% is discretionary to the Commission. The current split is 40% CDI and 60% DAs.

DA Pierson added that County DAs have a jurisdictional responsibility within their county and often supplement grant funding with the county's own funds.

Commissioner Sherman acknowledged the shift from 'silo' mentality to consolidation to drive down costs.

Commissioner Garcia-Brower requested more information on the underground economy sweep.

Assistant Chief Pedroza explained that sweeps are conducted over 1-2 days and are a joint effort with CDI, EDD, FTB, Insurers, Regional Offices, and locals. They include media coverage and provide an opportunity to educate businesses.

Commissioner Garcia-Brower suggested the consideration of a joint outreach video to inform and deter that could be used during bid processes and at group or public meetings to reach disenfranchised employers

Public Comments

Chairperson Marshall opened the floor for Public comment.

Doug Allen of the County of Santa Cruz commented on Ms. Himelblau's presentation on the Bagley Keene Open Meeting Act as it pertains to the use of sub-committees; he explained that the WC funding is stretched over cases; he further explained that his county is small but borders large counties and many businesses set-up in Santa Cruz but do business in the bordering counties and cases often touch broad areas.

Dominic Dugo of the County of San Diego commented on his county's recent audit experience and thanked CDI for protecting the taxpayers funds.

Aggregate

Chairperson Marshall opened the floor to the Commissioners for discussion.

Chairperson Marshall commented that medical provider fraud takes a large amount of resources. The defendants use tactics that drag out, don't let juries hear evidence, and draw resources away from other cases. Approximately 1/3 of indictments are federal without funding but involve investigative resource by CDI. Need to allocate to those doing complex investigations.

Commissioner Rhay commented that public employers are seeing an increase in fraudulent practice and that she appreciated the efforts of the presenters.

Commissioner Sherman commented that from a business perspective, 5% increase has a significant impact on employers vs 2-3%. With the uncertainty of the environment, he would like to wait and see.

Commissioner Riggs mentioned SB 1160, pending legislation related to workers compensation.

Chairperson Marshall commented that if signed, medical providers convicted of fraud would not be able to practice in workers compensation, potential to go after smaller charges and remove from system.

Commissioner Garcia-Brower commented that the legislation does not deal with the underground economy which impacts the janitorial industry. She acknowledged the push to do more medical provider fraud cases which use a lot of resources. She sees things moving in the right direction and if the FAC does not see the trend continue, they can decrease in the future.

Chairperson Marshall then opened the floor for Public comment.

Jennifer Snyder of the County of Los Angeles commented that referrals are improving, funds are used to their maximum, medical provider fraud is important but capping is also a big issue, collaborative efforts have increased in quality and quantity, and the increase in funding is to continue effective prosecution.

Motion

Commission Member Garcia-Brower made a motion to increase the assessment by 5% to \$62,211,350. Commission Member Riggs seconded the motion.

Chairperson Marshall asked for public comment on the motion; with no public comment, he called for a vote.

Action

The Fraud Assessment Commission voted unanimously to approve the FY 2017-18 Assessment at \$62,211,350.

Other Business

Chairperson Marshall stated that the next scheduled meeting will be Wednesday, January 11, 2017. Chairperson Marshall asked for a motion to adjourn the meeting.

Closing Remarks

Chairperson Marshall asked for a motion to adjourn the meeting.

Motion

Commissioner Garcia-Brower made a motion to adjourn. Commissioner Sherman seconded the motion.

Action

The Fraud Assessment Commission unanimously approved. The meeting was adjourned at 1:50 p.m.